

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re: FRED AND LINDA KOELLING,  
Debtors/Appellants/Cross-  
Appellees.

QMECT, INC.,  
Plaintiff,

v.

BURLINGAME CAPITAL PARTNERS, II,  
L.P.; ELECTROCHEM FUNDING, LLC,

Defendants/Appellees/  
Cross-Appellants.

No. C 06-7796 PJH/  
BK Case No. 04-46443 LT

**ORDER SUSPENDING BRIEFING  
ON MERITS AND SETTING  
BRIEFING SCHEDULE ON  
MOTION TO DISMISS**

This is a cross-appeal of an order of the bankruptcy court received by this court on December 20, 2006. On March 7, 2007, the clerk's office for this court received what appeared to be the bankruptcy record on appeal, and issued a briefing order on the merits of the cross-appeals on March 15, 2007. However, it has come to the court's attention via a motion to dismiss filed by Appellees/Cross-Appellants on March 19, 2007, that the record transmitted by the bankruptcy court is not complete. That is because the Koellings, who are proceeding pro se, have allegedly failed to transmit the items that they have designated to the bankruptcy court, including securing the transcripts, in accordance with Federal Rule of Bankruptcy Procedure ("FRBP") 8006.

Given the instant motion to dismiss and because the record on appeal is incomplete, briefing on the merits of the cross-appeals appears premature. Accordingly, the briefing

1 schedule is VACATED. Instead, Appellants/Cross-Appellees Koellings, are ORDERED to  
2 file and serve a response to the motion to dismiss **no later than twenty-one days** from the  
3 date of this order. In that response, the Koellings should address why the court should not  
4 dismiss the appeal for failure to prosecute and/or failure to comply with FRBP 8006.  
5 Appellees/Cross-Appellants may file a reply, if any, **no later than fourteen days** after the  
6 Koellings' response.

7 **IT IS SO ORDERED.**

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9 Dated: March 21, 2007



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PHYLLIS J. HAMILTON  
United States District Judge